

REMARKS

The Official Action mailed July 7, 2005, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicants respectfully submit that this response is being timely filed.

The Applicants note with appreciation the consideration of the Information Disclosure Statement filed on July 15, 2005.

Claims 2-37 were pending in the present application prior to the above amendment. (Although the Office Action Summary shows that claims 1-37 are pending, the Applicants note that claim 1 was canceled in the *Preliminary Amendment* filed on September 9, 2003.) Claims 2-7 have been canceled without prejudice or disclaimer. Accordingly, claims 8-37 are now pending in the present application, of which claims 8, 14, 20, 26 and 32 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 1 of the Official Action rejects claims 2-37 under the doctrine of obviousness-type double patenting over claims 1-28 of U.S. Patent No. 6,635,505 to Tanaka et al. The Applicants respectfully submit that the independent claims of the subject application are patentably distinct from the claims of the Tanaka '505 patent.

The Official Action asserts that the "subject matter claimed in the instant application and similar language recited in the patent claims obviously depict a similar method having either same steps and/or same materials, and such is also disclosed in both the patent and the instant application" (page 2, Paper No. 07). The Applicants respectfully submit that the claims of the present application are not a timewise extension of the invention as claimed in the Tanaka '505 patent.

As stated in MPEP § 804, under the heading "Obviousness-Type," in order to form an obviousness-type double patenting rejection, a claim in the present application must define an invention that is merely an obvious variation of an invention claimed in the prior art patent, and the claimed subject matter must not be patentably distinct from

the subject matter claimed in a commonly owned patent. Also, the patent principally underlying the double patenting rejection is not considered prior art.

Independent claims 8, 20 and 32 recite an edge of a gate insulating film aligned with a boundary between second impurity regions and third impurity regions; independent claims 14, 26 and 32 recite a first semiconductor layer having a larger width than that of a second semiconductor layer; and independent claims 20 and 26 recite wirings in contact with third impurity regions. The claims of Tanaka '505 do not teach or suggest the above-referenced features of the independent claims of the present application. Reconsideration of the obviousness-type double patenting rejection is requested.

Paragraph 2 of the Official Action objects to claims 8, 20 and 32 asserting that “wherein an edge of the gate insulating film is aligned with a boundary between the second impurity regions and the third impurity regions’ are not described/supported in the specifications” (page 2, Paper No. 07). The Applicants respectfully disagree. The above-referenced features are clearly shown in at least Figure 12A, for example. In any event, the Applicants have amended the specification to describe the features shown in Figure 12A. Since Figure 12A shows these features, no new matter has been added. Reconsideration and withdrawal of the objections are requested.

Paragraph 4 of the Official Action rejects claims 2, 3, 8, 9, 14, 15, 20, 21, 26, 27, 32 and 33 as anticipated by U.S. Patent No. 4,616,243 to Minato et al. As noted above, claims 2-7 have been canceled. With respect to claims 8, 9, 14, 15, 20, 21, 26, 27, 32 and 33, the Applicants respectfully traverse the rejection because the Official Action has not established an anticipation rejection.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicants respectfully submit that an anticipation rejection cannot be maintained against the independent claims of the present application. As noted above, independent claims 8, 20 and 32 recite an edge of a gate insulating film aligned with a boundary between second impurity regions and third impurity regions; and independent claims 14, 26 and 32 recite a first semiconductor layer having a larger width than that of a second semiconductor layer. The Official Action is silent as to these features, and the Applicants respectfully submit that Minato does not teach the above-referenced features of the present invention, either explicitly or inherently.

Since Minato does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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